

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:04-cv-199-RJC
(5:00-cr-46-V)**

WILLIAM LARNELL ECKLES, JR.,)	
)	
Petitioner,)	
)	
vs.)	ORDER
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
_____)	

THIS MATTER is before the Court on Petitioner’s *pro se* “Petition for Writ of Error Audita Querela Pursuant to 28 U.S.C. § 1651,” (Doc. No. 10), and Motion for Appointment of CJA Counsel, (Doc. No. 11).


Petitioner filed a § 1651 petition in the instant civil case seeking relief from his conviction and sentence. This matter was opened in a new civil case, number 5:13-cv-39-RLV, and it was dismissed as an unauthorized second or successive § 2255 petition pursuant to 28 U.S.C. § 2255(h). The pleading was not, however, terminated in the instant case. The Clerk of Court will therefore be directed to terminate the Petition, (Doc. No. 10), and note that the matter was opened in a separate civil case.

In his Motion for Appointment of CJA Counsel filed on October 16, 2013, Petitioner argues that counsel should be appointed to assist him in preparing an appeal of the reduced sentence that the Court imposed on September 26, 2012, arguing that he is entitled to additional relief under Alleyne v. United States, 570 U.S. 99 (2013). Any appeal addressing the sentence should have been filed in the criminal case. Moreover, the Motion was filed after the Fourth Circuit issued its mandate in Petitioner’s appeal of the reduced sentence and it will therefore be denied as moot.

IT IS, THEREFORE, ORDERED that:

1. The Clerk of Court is directed to terminate the “Petition for Writ of Error Audita Querela Pursuant to 28 U.S.C. § 1651,” (Doc. No. 10), and note on the docket that the petition was opened in civil case number 5:13-cv-39-RLV.
2. Petitioner’s Motion for Appointment of CJA Counsel, (Doc. No. 11), is **DENIED** as moot.

Signed: August 29, 2018


Robert J. Conrad, Jr.
United States District Judge

